



Juvenile Life without Parole in Mississippi, August 2018

Background

In 2005 the Supreme Court of the United States held that sentencing a person to death for a crime that occurred prior to their 18th birthday violated the federal constitution. *Roper v. Simmons*, 543 U.S. 551 (2005). In 2010 the Court held sentencing juvenile offenders to life without parole (JLWOP) for non-homicide offenses violated the federal constitution. *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011 (2010).

In June 2012 the Court held that automatic life without parole sentences for juvenile offenders convicted of homicide offenses violated the federal constitution. *Miller v. Alabama*, 132 S.Ct. 2455 (2012). States must not just provide juvenile offenders a procedure to seek a lesser punishment, to comply with the constitution the procedure must limit life without parole sentences to “the rare juvenile offender whose crime reflects irreparable corruption.” *Miller*.

In June 2013 the Mississippi Supreme Court recognized that under Mississippi’s parole law enacted in 1994 and 1995, all life sentences are without parole. *Parker v. State*, 119 So.3d 987 (Miss. 2013). Thus the *Parker* Court held that *Miller* requires individual determinations of parole eligibility in all homicide cases (capital murder and murder) before a life sentence without parole can be imposed. *Parker* applies to all juvenile offenders serving an automatic life sentence as well as all juvenile offenders convicted since *Miller*. See *Jones v. State*, 122 So3d 698 (Miss. 2013) (*Miller* applies retroactively as matter of state law).

In light of these decisions every juvenile homicide offender is now entitled to a sentencing or resentencing hearing. Because life without parole is the equivalent of a death sentence when imposed on a juvenile offender, see *Miller*, equivalent procedures must be in place to ensure the defendant’s constitutional rights are protected. This will require mitigation investigation and presentation including the use of experts, particularly in the field of child development.

Scope of the Problem – old cases

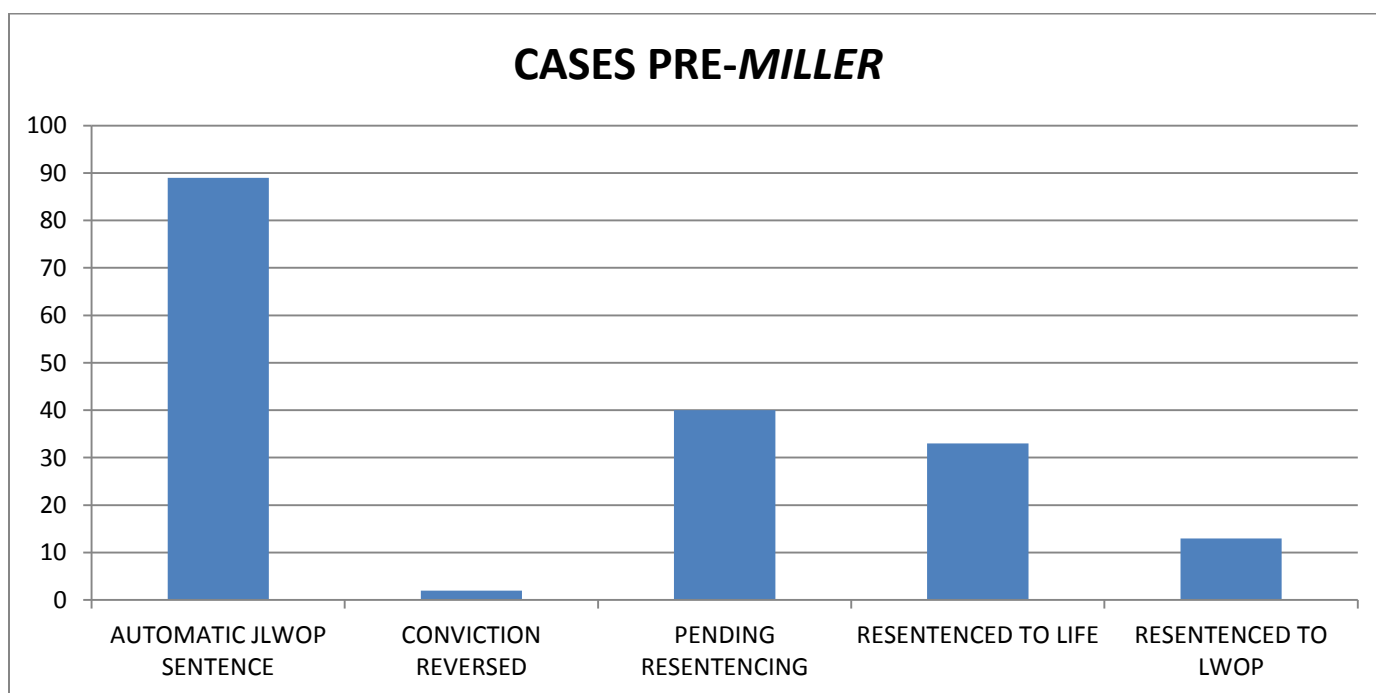
Eighty-seven people¹ in Mississippi were sentenced to automatic life without parole sentences for crimes occurring when they were juveniles (JLWOP sentences). Four were on direct appeal when *Miller* was decided and 83 have since filed 85 post-conviction motions raising *Miller* claims.

¹ Two people have two sentences imposed in separate cases so the total number of cases is 89.

Of the four cases on direct appeal when *Miller* was decided, two had their convictions reversed and two had the JLWOP sentence vacated. In one of the two reversals the defendant was acquitted on retrial and the other plead to a reduced charge of manslaughter. Both people, whose sentences were vacated, have been resentenced to life with parole.

In the 85 post-conviction cases, courts have been vacating the sentences and remanding for resentencing. So far, 44 resentencing proceedings have resulted in 31 sentences of life with eligibility for parole and 13 JLWOP sentences. One person died prior to resentencing.

Forty resentencing proceedings are pending.



Scope of the Problem – new cases

There were 16 potential JLWOP cases pending pre-trial when *Miller* was decided. Two were sentenced to automatic JLWOP for murder before *Parker* was decided and are counted in the 85 post-conviction cases noted above. One since *Parker* has been sentenced to JLWOP for murder. The others have been convicted of lesser charges or had charges dismissed.

One-hundred and two (102) new JLWOP eligible cases have been filed since July 1, 2012. Fifty-five of these cases remain open. Of the 47 closed cases five people have been sentenced to JLWOP bringing the total LWOP sentences post-*Parker* to nineteen.

It is anticipated that there will be 12 new JLWOP eligible cases indicted each year needing appointed counsel. Because these juvenile homicide cases are not “death penalty eligible offenses” Capital Defense Counsel cannot provide direct representation, *Miss. Code* § 99-18-5, leaving the primary burden on the county funded public defender systems. This development increases the need for comprehensive indigent defense reform in Mississippi.

Filling the Gap

In the wake of the *Miller* decision a coalition formed to identify and assist individuals serving mandatory life-without-parole sentences for crimes they committed as juveniles. The Mississippi Office of the Southern Poverty Law Center and the Law Office of McDuff & Byrd volunteered to coordinate the effort which included recruiting over 35 *pro bono* attorneys taking on over 50 cases. OSPD provided guidance and assistance, including conducting a three-day bring-your-own-case training program for attorneys with JLWOP cases. This is now a bi-annual program.

Beginning in 2014 the State Defender's assistance and training was enhanced by a partnership with the Southern Poverty Law Center in which OSPD housed the part-time JLWOP Resource Counsel funded through SPLC with a grant from the Vital Projects Fund (VPF). This limited assistance benefited *pro bono* counsel and the local defenders and counties but fell far short of ensuring the new constitutional mandate was met.

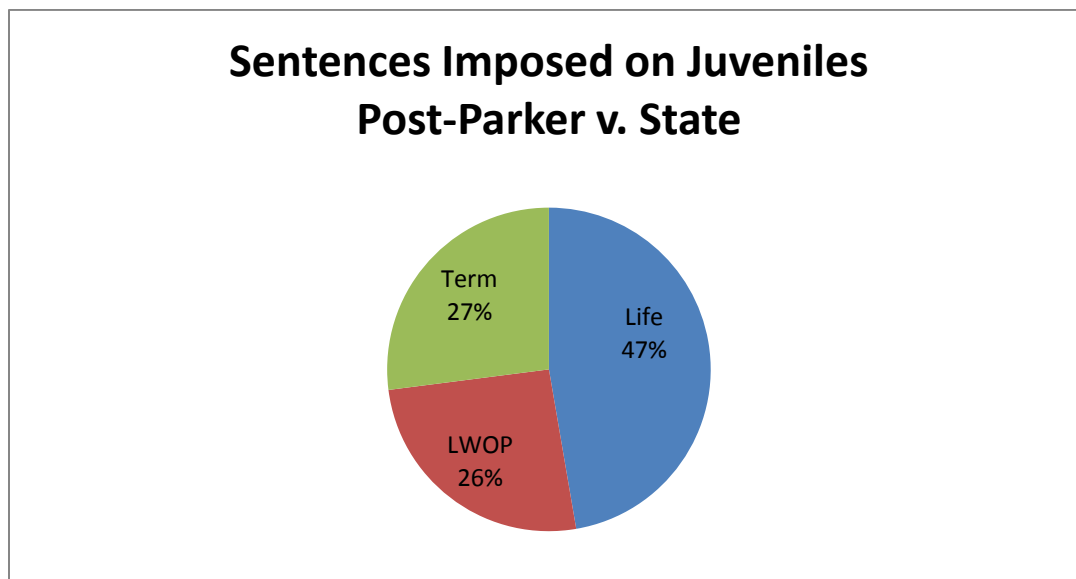
Beginning January 1, 2018, the Resource Counsel project expanded to a full-time attorney and full-time mitigation investigator. This expansion was made possible by a generous grant from the Southern Poverty Law Center. This grant is in addition to the VPF grant which will continue to be used to meet needs of the clients. The primary intent of the new grant is to help expedite the resentencing of the remaining people through assisting the many *pro bono* attorneys who have stepped in where the government has failed to meet this Constitutional crisis.

The Bottom Line

Even the most conservative estimate of the cost to counties to provide constitutionally adequate counsel, investigators and experts in the pending cases would be in the millions with an additional \$900,000/year to handle future cases.

The Ultimate Question

Is the sentence of life without parole being reserved for the "rare juvenile offender" as envisioned by our high Court?



Sentences Imposed in Homicide Cases Post-*Parker v. State*

District	County	Surname	Name	Age	Charge	Disposition	Sentence
1	Alcorn	Moss	Amatrie	17	M	M 2	30 years
1	Alcorn	Traylor	Brooklyn	17	CM	M	LWOP
1	Lee	Jones	Brett	15	M	M	LWOP
2	Harrison	Clark	Damon	16	CM	M 2	25 years
2	Harrison	Johnson	Sellers	17	CM	CM	LWOP
2	Harrison	Wharton	Darren	17	CM	CM	LWOP
4	Leflore	Brooks	Lorenza	17	M	M 2	20 years
4	Leflore	Dorsey	Jaquirus	15	M	M 2	22 years
4	Sunflower	Bell	Ricky	16	M	M	Life
4	Sunflower	Carter	Clifton	16	M	M	Life
5	Carroll	Stewart	Paul Murrell	17	CM	CM	Life
5	Grenada	Holly	William	17	CM	CM	Life
5	Grenada	Rounds	Ladarius	16	M 2	M 2	20 years
7	Hinds	Anderson	Skilah	17	CM	CM	Life
7	Hinds	Beal	Bennie	17	M	M 2	20 years
7	Hinds	Brister	Garner Jr.	16	CM	CM	Life
7	Hinds	Brown	Marzell	17	CM	CM	Life
7	Hinds	Brown	Shaun Jr.	16	M	M 2	25 years
7	Hinds	Dukes	Antwain	16	CM	M 2	25 years
7	Hinds	Ellis	Antwon	17	CM	CM	Life
7	Hinds	Holmes	Willie	17	M	M	Life
7	Hinds	Lowe	Andrea	17	M 2	M 2	25 years
7	Hinds	Moore	Gerome	17	CM	CM	LWOP
7	Hinds	Moore	Terun	17	CM	CM	Life
7	Hinds	Williams	James	17	M	M	Life
8	Scott	Jackson	DeShaun	16	CM	CM	Life
8	Scott	Jones	Charlie	16	M	M	Life
9	Warren	Black	Marquis	15	M	M 2	20 years
9	Warren	Brown	Romaire	16	M	M 2	25 years
9	Warren	Vega	Tyla	14	M	M 2	7 years
10	Lauderdale	Davis	Antshawn	17	M	M	Life
10	Lauderdale	McDowell	Eric	17	M	M	Life
10	Lauderdale	Mosley	Eric	16	M	M	Life
10	Lauderdale	Smith	Gregory	17	CM	CM	Life
11	Bolivar	Dycus	Kelvin	17	CM	CM	Life
11	Bolivar	Story	Dbryus	17	CM	CM	Life

11	Coahoma	Brady	Jamario	15	M	M	Life
11	Coahoma	Gaines	Timothy	17	CM	CM	Life
11	Coahoma	Roberson	Nathaniel Jr.	17	CM	CM	LWOP
11	Quitman	Davis	William	17	CM	CM	Life
11	Tunica	Bass	Cortez	17	M	M	LWOP
11	Tunica	Small	Dedrick	14	M	M	Life
12	Forrest	Fox	Cadarius	15	CM	M 2	15 years
12	Forrest	Horne	Jerrian	14	CM	CM	Life
12	Forrest	Robinson	Jeremiah	16	CM	M 2	15 years
13	Simpson	Albright	Robert	15	M	M	Life
13	Simpson	Anthony	Michael	15	M	M	Life
14	Lincoln	Cook	Jerrard	17	CM	CM	LWOP
14	Pike	Hymes	Alexander	16	M	M	Life
14	Pike	Perkins	Lajerrious	17	M	M 2	40 years
14	Pike	Thompson	Blake	14	M	M 2	30 years
15	Jefferson Davis	Watts	Arthur	17	M	M	Life
15	Lamar	Greenlee	Aaron	16	M	M	Life
15	Lamar	Miller	Joshua	14	M	M	LWOP
16	Clay	Chandler	Joey	17	M	M	LWOP
16	Lowndes	Foster	Ronald	17	CM	CM	Life
16	Lowndes	Hicks	Traveil	17	CM	M 2	25 years
17	DeSoto	Banis	James	16	M	M 2	25 years
17	DeSoto	Shoemake	Charles	17	M	M	LWOP
17	Panola	Banton	Cody	17	M	M	Life
17	Panola	Hudspeth	Lois	17	M	M	LWOP
17	Panola	Strong	Cordarius	16	CM	M 2	40 years
18	Jones	Davis	Kenya	17	M	M	Life
19	Jackson	Booker	Anthony	16	CM	CM	LWOP
19	Jackson	Davis	Shawn	16	M	M	LWOP
19	Jackson	Hye	Terry Jr.	15	CM	CM	Life
19	Jackson	Martin	Jeremy	17	CM	CM	LWOP
19	Jackson	McGilberry	Stephen	16	CM	CM	LWOP
19	Jackson	Wells	Darwin	15	M	M	LWOP
20	Madison	Ealy	Eugene	16	M	M	LWOP
20	Madison	Smith	Frederick Jr.	17	M	M 2	40 years
21	Yazoo	Young	Cornelius	17	M	M	LWOP
22	Copiah	Parker	Lester	15	M	M	Life
22	Copiah	Thomas	Arthur	17	CM	CM	Life